

GOVERNMENT OF TELANGANA
ABSTRACT

Tribal Welfare Department -Khammam District- Revision Petition filed by Sri Chunchu Kistaiah, S/o Peda Venkaiah, R/o Purushothapatnam(V), Bhadrachalam(M), Khammam District has filed Revision Petition along with Stay petition dated 27-10-2008 before the Government against the CMA No. 203/07, dt 21.06.2008 of Addl. Agent to Government Bhadrachalam, Khammam District- Dismissed - Orders – Issued

TRIBAL WELFARE (LTR) DEPARTMENT

G.O.Ms.No. 20

Dated: 29-04-2017

Read the following:-

- 1.Revision Petition filed by Sri Chunchu Kistaiah, S/o Peda Venkaiah, R/o Purushothapatnam (V), Bhadrachalam(M) dt:25.10.2008.
2. Govt.Lr.No.10571/TW.LTR.2/2008, dated 17.11.2008.
3. From the Addl. Agent to Government Bhadrachalam Lr.RP No.10571/LTR-2/08-1, (CMA No.203/2007), dt. 17.04.2009.

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ORDER

In the reference 1st read above, Sri Chunchu Kistaiah, S/o Peda Venkaiah, R/o Purushothapatnam(V), Bhadrachalam(M), Khammam District has filed Revision Petition along with Stay petition dated 27-10-2008 before the Government and requested to grant stay land measuring Ac.12.67 cts. In Sy.No.s 11/1A, Ac.0.371/2. In Sy.No.11/2 and Ac.1.171/2 cts. In Sy.No. 13/2A of Bhadrachalam (V) & Khammam (Dt.) against the CMA No. 203/07, dt 21.06.2008 of Addl. Agent to Government Bhadrachalam, Khammam District.

2. In the reference 2nd read above, Stay was granted on the orders of the Project Officer & Addl. Agent to Government, Bhadrachalam and requested to furnish Para Wise Remarks and connected case records and in the reference 3rd read above the Addl. Agent to Government, Bhadrachalam has furnished Para Wise Remarks and connected case records.

3. The Main grounds of the case are as follows:

- The Revision Petitioner is claiming possession of the land to an extent of Ac. 2-92 Cents out of the total extent of Ac. 16-07 Cents shown in the Schedule of Form "E" and explained to the Respondents that their possession of the land is not by way of "Transfer" and in violation of Regulation 1 of 1970 and he has further explained that he has come in to possession of the land as per the Registered Will Deed Dt.16/11/2000 executed by Smt. Bonala Venkatravamma W/o Bonala Venkata Sundara Ramaiah (Non- Tribal) and that "Will" is not transfer within the meaning of Sectin-2 (g) of the A.P. Schedule Land Transfer Regulation, 1959. But the Respondents 1 & 2 Authorities failed to appreciate the explanation and passed the impugned Orders and they are liable to be revised by closing the case against the Revision Petitioner.
- The authorities exercising powers under the provisions of A.P. Scheduled Areas Land Transfer Regulation, 1959 and Regulation 1/1970, failed to understand the law relating to Transfer of Property, more particularly to distinguish and Understand the meaning of "TRANSFER" and "WILL" and passed the Order of Ejectment of the Revision Petitioner from his land based upon their presumptions and assumptions. The said approach of the Authorities is not legal and resulted in miscarriage of justice. The Government of A.P. is empowered under Section-6 of A.P. Scheduled Areas Land Transfer Regulation, 1959 to call for the record and to revise the impugned Orders stated above and close the case against the Revision Petitioner for the ends of justice.
- The authorities have failed to see the contents in the Will Deed to appreciate the bonafides of the Testator in bequeathing the property. The Will Deed was executed on 16/11/2000 and the Testator died on 21/06/2002. The Revision Petitioner has produced the Registered Will Deed and the Death Certificate before the Respondents 1 & 2. The reasoning given by the 2nd Respondent in his Order Dt.21/06/2008 is wholly perverse and lack of understanding the law. The presumption of the 2nd Respondent that the Revision Petitioner had purchased the property and the Will is created only to overcome the Regulation, is totally perverse and lack of understanding the law of the land. The Testator is at liberty to bequeath his properties as per his Will & Wish. The Revision Petitioner is submits that "Will" is not a "Transfer".

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- The Revision Petitioner submits that the view of the Respondents 1 & 2 that the Testator is having sons and there is no necessity for her to execute the Registered Will Deed in favour of others who are no way related to her is not legal. The Testator is at liberty to bequeath his/her property as per his/her wish.
- The Revision Petitioner has proved that his possession of the land acquired by him is not through a Transfer made to him by a member of the Scheduled Tribe or a Non-Tribal, to discharge his burden U/s 3(1)(b) of A.P. Scheduled Areas Land Transfer Regulation, 1959 but both the Respondents 1 & 2 have illegally passed the impugned Orders and it is just and expedient to revise the said Orders by the State Government and to protect the possession of the land held by the Revision Petitioner as explained above.

4 The remarks of the Addl. Agent to Government, Bhadrachalam on the revision petition are as under:

- The Revision Petitioner's case is that he is claiming the scheduled property through a registered will dated 16-11-2000 executed by Smt. Bonala Venkata Ravamma W/o V. Venkata Sundara Ramaiah and the said will is not a transfer. As per the said will the Revision Petitioner got D- Scheduled property. After perusal of the will the Venkata Ravamma got sons and she gave some property to her eldest son B.V. Satya Narayana that means it is clear the Venkata Ravamma executed a will and through the said will she gave properties to several Non-tribals including the Revision Petitioner. While she got children there is no necessity for her to execute a will in favour of another Non-Tribals and she got her own Kith and Kin relatives. The said will only bring into existence to avoid the regulation.
- Smt. Bonala Venkata Ravamma executed a will in favour of non-tribals even though she had got her own children. The non-tribals who are claiming the property through said will are not related to her. It is purely a sale of land by one Non- Tribal to another Non-Tribal and to overcome the Land Transfer Regulation, the alleged will was brought into existence. By seeing the will itself clearly shows that several people are claiming the property of late Venkata Revamma to avoid the Regulation. It is clear violation of the Land Transfer Regulation 1/59 as amended by 1/70. The Lower Court rightly passed the orders.
- Both the courts after due verification rightly came to a conclusion that it is a clear violation of Land Transfer Regulation 1/59 as amended by 1/70 and passed orders.
- In view of the above that the orders passed by the 1st and 2nd respondents here in ie., Agency Divisional Officer and Additional Agent to Government are proper and legally correct according to the provisions of APSA LTR Regulation.

5. Government after conducting hearings and after careful examination of the Revision Petition and as verified from the documents produced before the authority as well as before the Addl.Agent to Govt it is observed that;

- The main contention of the Revision Petitioner is that he got the schedule property through Registered will deed dt:16.11.2000 stated to have been be executed by late Smt. Bonala Venkata Ravamma W/o Late Sr.B.V.Sundara Ramaiah. As seen from the pahani copy available in file relating to CMA/203/2007 of Addl.Agent to govt, Bhadrachalam it is evident that Smt.Bonala Venkata Ravamma was pattadar and possessor of the land as detailed below.

1. Sy.No.11/1	Ac.13-10 cents
2. Sy.No.11/2	Ac. 0-37 cents
3. Sy.No.13/2	Ac 2-05 cents
<u>Total Ac.15-52 cents</u>	

- As seen from the copy of will deed dt:16.11.2000 stated to be executed by late Smt. Bonala Venkataravamma she has distributed the above property to five different persons, who are not her family members and one house property to her elder son Bonala Venkata Satyanarayana (in A,B,C,D,E & F Schedule)

1. Kondaveeti Koteswar Rao S/o Amrutaiah R/o Bhadrachalam(A-Schedule property) 1) S.No.13/2-Ac.2.05 cents, 2) S.No.11/1-0-45 cents total Ac-2.50 cents.
2. Kondaveeti Babu Rao S/o Amrutaiah R/o Bhadrachalam (B. Schedule Property) S.No 11/1 – Ac 5-00 Cents.

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3. Mallempati Veerabhadra Rao S/o Lakshmaiah R/o Nellipaka (C. Schedule Property) S.No 11/1 – Ac.2.55 cents.
 4. Chunchupalli Kistaiah S/o Venkaiah R/o Purushothapatnam (D. Scheduled property) 1) S.No 11/1- Ac 2-80 cents, 2) S.No11/2-12.333 cents (House site)
 5. Bellam konda Lakshimi W/o Subbarao R/o Pedaparmi (v), Guntur Dist. (E. Schedule property) 1) S.No 11/1 – Ac 2.65 cents, 2) S.No.11/2 -Ac 12.333 cents (House site).
 6. Bonala Satyanarayana S/o Sundara Ramaiah (F. Schedule property) House bearing No 6-1-52 at Bhadrachalam.
- Smt.bonala Venkata Ravamma while executing the will deed has clearly committed that the property is inherited to her. Hence the property was not purchased by her. Further she is having more than one son. She has given the “F schedule” property to her elder son. As seen from will deed all that property distributed among the 5 persons who are not her relatives is located in schedule area. She has not distributed any property possessed by her in plain area. Her permanent residence is Ibrahimpatnam (v) &(m) of Krishna Dist. She has executed will deed to different persons belonging to different places i.e KoteswarRao & BabuRao are residents of Bhadrachalam, Veerabhadra Rao is resident of Nellipaka, Chunchu Kistaiah is resident of purushothapatnam and Bellamkonda Laxmi is resident of padapavim (v) Of Guntur Dist. Hence it is clear that the land was not given out of love and affection.
 - Hence it is clearly established that all these five persons purchased the land from Smt. Bonala Venkataravamma preferably with the consent of her family members and created / managed the will deed dt:16.11.2000 to overcome the restrictions contained in A.P.Scheduled area land transfer Regulation, 1959 (Act I Of 59) amended in Act I of 70. All the persons figured in the will deed are non-tribals and they cannot acquire the land in schedule area. Moreover Smt. Bonala Venkataravamma is having children. In the will deed she has given one property to her elder son. The property given is existing house but not any landed property. Further she has not given any property to her other children. Hence it is clearly established that the lands in question are sold out and the will deed is not genuine one.

6. Government after careful examination of the matter here by dismissed the appeal of Sri. Chunchu Kistaiah (Krishnaiah) and hereby upheld the orders of the Addl.Agent to Government and Project Officer, ITDA, Bhadrachalam Dt:21.06.2008 in CMA.No 203/2007

7. The Addl.Agent to Government and Project Officer, ITDA, Bhadrachalam, Bhadradi Kothagudem District shall initiate necessary further action to eject other (4) members mentioned above from the lands occupied by them in schedule area accordingly. The original case records received in the reference 3rd read above are returned herewith.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

SOMESH KUMAR,
PRINCIPAL SECRETARY TO GOVERNMENT

To

- 1) Sri Chunchu Kistaiah, S/o (late) Peda Venkaiah,
R/o Purushothapatnam (V), Bhadrachalam(M) now Bhadradi
Kothagudem District.
- 2) The Project Officer, ITDA and Additional Agent to Government,
Bhadrachalam, Bhadradi Kothagudem District (w.e.)

Copy to :

The Agency Divisional Officer & Sub Collector, Bhadrachalam,
Now Bhadradi Kothagudem District for information and necessary action.
The Tahsildar, Bhadrachalam Mandal, Now Bhadradi Kothagudem District

for necessary action.
P.S to Minister (TW)/P.S. to Prl.Secretary(TW)
SF/SC

// FORWARDED:: BY ORDER//

SECTION OFFICER

